REMARKS

Claims 1-3, 6-9 and 13 remain in the present application.

Claim 1 has been amended to more specifically define the fact that the tacked region at the end of the food strip is the only point at which the roll is tacked (antecedent basis for this amendment is found in the present application at page 4, lines 3-5 and 23-25, and in Fig. 5 where the tacking mechanism (prong) clearly only contacts a point in each of the top two layers of the roll).

The present invention relates to confectionery articles which comprise a strip of fruit or candy material formed into a roll, the end of the roll being tacked to an adjacent inner layer of the roll through the application of heat or pressure to the outer layer. This tacked region serves as the point (i.e., the only point) at which the outer layer and the inner layer of the roll are tacked together. the language in amended claim 1 should address completely the § 112, second paragraph, issue raised by the Examiner in the Advisory Action. The article provides a candy or snack item in a form which is viewed very positively by the consumer, particularly children. The method of forming these rolled food products is already covered in U.S. Patent 6,200,617, issued March 13, 2001.

The Examiner has rejected claims 1, 2, 7 and 8, under 35 U.S.C. § 102(b), based upon the Lazarus reference (U.S. Patent 1,566,146). The Examiner has also rejected claims 1, 2, 7 and 8, under 35 U.S.C. § 102(b), based on the Zimmerman et al. reference (U.S. Patent 5,723,163). The Examiner has rejected claims 3 and 9, under 35 U.S.C. § 103(a), based upon the Lazarus reference in view of Suzuki et al. (Japan 63024853A). Finally, the Examiner has rejected claims 6 and 13, under 35 U.S.C. § 103(a), based upon the Zimmerman patent in view of the Packer et al. reference (U.S. Patent 5,348,751). In light of the amendments and the remarks made herein, it is respectfully submitted that the claims herein are allowable over the references cited by the Examiner.

The Lazarus patent describes a basket made out of candy material. The bottom of the basket is formed by spiral winding a candy strip. The candy strip is wound while it is hot so that the candy is sticky, and (according to the patent) "the convolutions of the coil will stick to each other." While this does represent a roll of a candy material, by the terms of the patent itself, adjacent layers of the roll are adhered together along the entire length of the strip. In sharp contrast, the present invention is not adhered along the entire length of the roll (i.e., that would render the product very difficult to unroll and eat), but is only adhered at the end of the

roll. This is clear from the way the present invention is made and the way the end of the roll is tacked. This limitation has always been in the claims and has been clarified by the amendment herein. Since the Lazarus patent does not include this specific required limitation in the claims of the present invention, it cannot be an anticipation of the present claims. Further, since the Lazarus patent does not provide any basis for forming a spiral of candy material which is anything other than tacked all the way along its entire length (and the bottom of the Lazarus basket would not function to hold the contents of the basket if it were not tacked all along its length), it would not have been obvious to form a candy spiral which is tacked only at its end. Accordingly, the Lazarus patent does not provide a basis for an obviousness rejection of the claims of the present application. The Suzuki et al. publication, which has been cited by the Examiner in the context of an obviousness rejection, describes a method for coating a flower with sugar. This reference has nothing to do with a fruit or candy roll-up product. Further, this reference does not supplement the deficiency of the Lazarus patent in terms of teaching a rolled-up candy product which is tacked solely at its end. Accordingly, the obviousness rejection based on the Lazarus patent in view of the Suzuki publication is not applicable to the claims of the present application.

The Zimmerman et al. patent describes a process for making a rolled strip of a fruit-based material. In making that product, it is taught that a label is placed on the end of the strip such that part of the label is on the end of the strip and part of the label is off the strip. After the strip is rolled up, it is taught that a pressure plate comes up against the label at the end of the roll. It is the label which tacks the end of the strip to the adjacent roll, not an adhesive action between portions of the candy strip itself (see column 6, lines 50-58 of the Zimmerman et al. patent). The pressure plate is tacking the label to the roll; it does not tack the end of the candy strip to its adjacent candy layer. Accordingly, the Zimmerman et al. patent does not meet a very specific limitation contained in the claims of the present application (i.e., that the candy strip itself is tacked to its adjacent layer based on the application of pressure). Accordingly, the Zimmerman et al. patent cannot serve as the basis for an anticipation rejection. Further, since the only sort of tacking described in the Zimmerman et al. patent is based on the use of the label, it would not have been obvious to actually tack the end of the roll by causing the two candy layers to stick together. Finally, the Packer et al. patent cited by the Examiner teaches rolling a sheet of dough to form a layered roll which is sliced. The sliced dough spirals may be placed in a bag. This disclosure does not in any way supplement

the deficiencies in the Zimmerman et al. patent, discussed above, and, therefore, the claims of the present application would not have been obvious based on the combined teachings of the Zimmerman et al. and the Packer et al. references.

In light of the foregoing, it is submitted that the claims of the present application, as amended herein, are clearly different from and allowable over the references cited by the Examiner. Accordingly, reconsideration and allowance of those claims are earnestly solicited.

Respectfully submitted,
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